



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA-R09-OAR-2020-0213; FRL-10013-66-Region 9

Air Plan Approval; California; Consumer Products Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the California Air Resources Board's (CARB's) Consumer Products portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from consumer products and a supporting test method. The EPA is also approving revisions to California's Tables of Maximum Incremental Reactivity (MIR) Values to support its Aerosol Coating Products regulation. We are approving state rules to regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective [**Insert date 30 days after date of publication in the Federal Register**].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2020-0213. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, EPA Region IX, (415) 947-4152, buss.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

Table of Contents

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. Proposed Action

The Consumer Products portion of the California SIP consists of rules promulgated in title 17 of the California Code of Regulations (17 CCR), division 3 (“Air Resources”), chapter 1 (“Air Resources Board”), subchapter 8.5 (“Consumer Products”), article 1 (“Antiperspirants and Deodorants”), article 2 (“Consumer Products”) and article 3 (“Aerosol Coating Products”); and subchapter 8.6 (“Maximum Incremental Reactivity”), article 1 (“Tables of Maximum Incremental Reactivity (MIR) Values”).

On May 29, 2020 (85 FR 32324), the EPA proposed to approve the following amendments to the Consumer Products portion of the California SIP.

TABLE 1 - SUBMITTED RULES

Local Agency	California Code of Regulations	Title	Amended ¹	Submitted
CARB	Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 1	Antiperspirants and Deodorants ²	05/25/2018	06/04/2019
CARB	Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 2	Consumer Products ³	05/25/2018	06/04/2019
CARB	Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 3	Aerosol Coating Products ⁴	09/17/2014	12/01/2016
CARB	Title 17, Division 3, Chapter 1, Subchapter 8.6, Article 1	Tables of Maximum Incremental Reactivity (MIR) Values ⁵	09/17/2014	12/01/2016

¹ CARB adopted amendments to articles 1, 2 and 3 of subchapter 8.5 and article 1 of subchapter 8.6 on September 26, 2013. The California Office of Administrative Law (OAL) approved the amendments on September 17, 2014, effective January 1, 2015. CARB submitted the September 26, 2013 amendments to the EPA as a SIP revision on December 1, 2016. CARB adopted amendments to Method 310 on May 25, 2018 and submitted Method 310, as amended, to the EPA as a SIP revision on June 4, 2019.

² Article 1 of subchapter 8.5 includes sections 94500, 94501, 94502, 94503, 94503.5, 94504, 94505, 94506 and 94506.5. Amendments to a section of Article 1, 17 California Code of Regulations (CCR) section 94506 (“Test Methods”), were adopted by CARB on May 25, 2018, and approved by the California OAL on December 31, 2018, effective January 1, 2019. CARB submitted the May 25, 2018 amendments to the EPA as a SIP revision by letter dated June 4, 2019.

³ Article 2 of subchapter 8.5 includes sections 94507 through 94517. Amendments to a subset of these rules, 17 CCR sections 94509, 94513 and 94515, were adopted by CARB on May 25, 2018, and approved by the California OAL on December 31, 2018, effective January 1, 2019. CARB submitted the May 25, 2018 amendments to the EPA as a SIP revision by letter dated June 4, 2019.

⁴ Article 3 of subchapter 8.5 includes sections 94520 through 94528.

⁵ Article 1 of subchapter 8.6 includes sections 94700 and 94701.

Local Agency	California Code of Regulations	Title	Amended ¹	Submitted
CARB		Method 310 – Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products	05/25/2018	06/04/2019

The current amendments to article 1 (“Antiperspirants and Deodorants”) of subchapter 8.5 update certain definitions and references. The current amendments to article 2 (“Consumer Products”) of subchapter 8.5 revise certain definitions, lower certain VOC standards, and clarify and update certain administrative and reporting requirements. Current amendments to article 3 (“Aerosol Coating Products”) of subchapter 8.5 clarify applicability, revise certain definitions, delete mass-based VOC limits and add new, lower reactivity-based limits for general and specialty aerosol coatings. Lastly, the current amendments to article 1 (“Tables of Maximum Incremental Reactivity (MIR) Values”) of subchapter 8.6 (“Maximum Incremental Reactivity”) update MIR values for many individual chemical compounds and hydrocarbon solvent groupings. CARB estimates that the current amendments will result in equivalent VOC emission reductions of approximately 4 tons per day (tpd) statewide, of which approximately 1.8 tpd will occur in the area under the jurisdiction of the South Coast Air Quality Management District.

We proposed to approve the amended rules because we determined that they comply with the relevant CAA requirements. We also found that, overall, CARB’s rules are the same or more stringent than the corresponding national rules. Our proposed action and the related technical support documents contain more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

Pursuant to section 110(k)(3) of the Act, and for the reasons set forth in the proposed rule and summarized above, the EPA is fully approving the revisions to the CARB's Consumer Products portion of the California SIP as submitted on December 1, 2016 and June 4, 2019.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the California rules described in the amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁶ The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the "**FOR FURTHER INFORMATION CONTACT**" section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40

⁶ 62 FR 27968 (May 22, 1997).

CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60**

days after date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 13, 2020.

John Busterud
Regional Administrator,
Region IX.

For the reasons stated in the preamble, the EPA amends chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52 — APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. In § 52.220a :

a. In paragraph (c):

i. Amend table 1 by revising the entries for “94500”, “94501”, “94502”, “94503”, “94503.5”, “94504”, “94505”, “94506”, “94506.5”, “94507”, “94508”, “94509”, “94510”, “94511”, “94512”, “94513”, “94514”, “94515”, “94516”, “94517”, “94520”, “94521”, “94522”, “94523”, “94524”, “94525”, “94526”, “94527” and “94528”; and

ii. Amend table 2 by adding an entry for “Method 310 – Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products” at the end of the table.

The revisions and addition read as follows:

§ 52.220a Identification of plan – in part.

* * * * *

(c) * * *

TABLE 1--EPA-APPROVED STATUTES AND STATE REGULATIONS¹

State Citation	Title/Subject	State effective date	EPA approval date	Additional explanation

* * * * *				
94500	Applicability	3/30/1996	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94501	Definitions	1/1/2015	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94502	Standards for Antiperspirants and Deodorants	6/6/2001	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94503	Exemptions	3/30/1996	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94503.5	Innovative Products	3/30/1996	[Insert Federal	Submitted by CARB on

			Register citation], [Insert date of publication in the Federal Register]	December 1, 2016.
94504	Administrative Requirements	6/6/2001	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94505	Variances	3/30/1996	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94506	Test Methods	1/1/2019	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on June 4, 2019.
94506.5	Federal Enforceability	12/16/1999	[Insert Federal Register citation], [Insert date of	Submitted by CARB on December 1, 2016.

			publication in the Federal Register]	
*	*	*	*	*
94507	Applicability	11/19/2000	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94508	Definitions	1/1/2015	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94509	Standards for Consumer Products	1/1/2019	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on June 4, 2019.
94510	Exemptions	12/10/2011	[Insert Federal Register citation], [Insert date of publication	Submitted by CARB on December 1, 2016.

			in the Federal Register]	
94511	Innovative Products	10/20/2010	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94512	Administrative Requirements	1/1/2015	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94513	Reporting Requirements	1/1/2019	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on June 4, 2019.
94514	Variances	12/8/2007	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94515	Test Methods	1/1/2019	[Insert	Submitted by

			Federal Register citation], [Insert date of publication in the Federal Register]	CARB on June 4, 2019.
94516	Severability	10/21/1991	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94517	Federal Enforceability	11/18/1997	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
* * * * *				
94520	Applicability	1/1/2015	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94521	Definitions	1/1/2015	[Insert Federal	Submitted by CARB on

			Register citation], [Insert date of publication in the Federal Register]	December 1, 2016.
94522	Reactivity Limits and Requirements	1/1/2015	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94523	Exemptions	1/1/2015	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94524	Administrative Requirements	1/1/2015	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94525	Variances	1/1/2015	[Insert Federal Register citation], [Insert date of	Submitted by CARB on December 1, 2016.

			publication in the Federal Register]	
94526	Test Methods and Compliance Verification	1/1/2015	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94527	Severability	1/8/1996	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
94528	Federal Enforceability	1/1/2015	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.
* * * * *				
94700	MIR Values for Compounds	1/1/2015	[Insert Federal Register citation], [Insert date of publication	Submitted by CARB on December 1, 2016.

			in the Federal Register]	
94701	MIR Values for Hydrocarbon Solvents	10/2/2010	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on December 1, 2016.

¹ Table 1 lists EPA-approved California statutes and regulations incorporated by reference in the applicable SIP. Table 2 of paragraph (c) lists approved California test procedures, test methods and specifications that are cited in certain regulations listed in table 1. Approved California statutes that are nonregulatory or quasi-regulatory are listed in paragraph (e).

TABLE 2--EPA-APPROVED CALIFORNIA TEST PROCEDURES, TEST METHODS, AND SPECIFICATIONS

Title/Subject	State Effective Date	EPA Approval Date	Additional Explanation
* * * * *			
Method 310 – Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products	5/25/2018	[Insert Federal Register citation], [Insert date of publication in the Federal Register]	Submitted by CARB on June 4, 2019.

* * * * *